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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

RIGHTHAVEN LLC, a Nevada limited-  
liability company,

Plaintiff,

v.

BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS BUILDING ASSOCIATION,  
an Ohio nonprofit corporation; and WALT  
SCHMIDT, an individual,

Defendants.

Case No.: 2:10-cv-01765

**COMPLAINT AND DEMAND  
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Brotherhood of Locomotive Engineers Building Association (“BLE”) and Walt Schmidt (“Mr. Schmidt”; collectively with BLE known herein as the “Defendants”) on information and belief:

**NATURE OF ACTION**

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

**PARTIES**

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. BLE is, and has been at all times relevant to this lawsuit, an Ohio nonprofit corporation.

5. BLE is, and has been at all times relevant to this lawsuit, identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant of the Internet domain found at <ble-t.org> (the “Domain”).

6. BLE is, and has been at all times relevant to this lawsuit, identified by GoDaddy as an administrative contact and technical contact for the Domain.

7. Mr. Schmidt is, and has been at all times relevant to this lawsuit, identified by GoDaddy as an administrative contact and technical contact for the Domain.

8. Mr. Schmidt is, and has been at all times relevant to this lawsuit, identified by the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”) as the “Director of Online Services” for BLE.

9. BLE is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted on the Website, as evidenced by a copyright notice displayed on the Website: “© 1997 - 2010 Brotherhood of Locomotive Engineers and Trainmen.”

**JURISDICTION**

10. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

1           11.     Righthaven is the owner of the copyright in the literary work entitled:  
2     “Comparing, contrasting Southern Nevada train proposals” (the “Work”), attached hereto as  
3     Exhibit 1.

4           12.     At all times relevant to this lawsuit, the Work has depicted and depicts the  
5     original source publication as the *Las Vegas Review-Journal*.

6           13.     The Defendants willfully copied, on an unauthorized basis, the Work from a  
7     source emanating from Nevada.

8           14.     On or about July 26, 2010, the Defendants displayed, and continue to display, an  
9     unauthorized copy of the Work (the “Infringement”), attached hereto as Exhibit 2, on the  
10    Website.

11          15.     At all times relevant to this lawsuit, the Infringement has depicted and depicts the  
12    original source publication as the *Las Vegas Review-Journal*.

13          16.     The subject matter, at least in part, of the Work and the Infringement, is the  
14    design and construction of a high-speed train in Southern Nevada.

15          17.     At all times relevant to this lawsuit, the Defendants knew that the Work was  
16    originally published in the *Las Vegas Review-Journal*.

17          18.     At all times relevant to this lawsuit, the Defendants knew that the Infringement  
18    was and is of specific interest to Nevada residents.

19          19.     The Defendants’ display of the Infringement was and is purposefully directed at  
20    Nevada residents.

21  
22  
23                   **VENUE**

24          20.     The United States District Court for the District of Nevada is an appropriate  
25    venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to  
26    the claim for relief are situated in Nevada.

1           21.     The United States District Court for the District of Nevada is an appropriate  
2 venue, pursuant to 28 U.S.C. § 1391(c), because BLE is subject to personal jurisdiction in  
3 Nevada.

4           22.     The United States District Court for the District of Nevada is an appropriate  
5 venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal  
6 jurisdiction in Nevada.

7  
8  
9                                   **FACTS**

10           23.     The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §  
11 102(a)(1).

12           24.     Righthaven is the owner of the copyright in and to the Work.

13           25.     The Work was originally published on or about July 26, 2010.

14           26.     On October 6, 2010, the United States Copyright Office (the “USCO”) received  
15 Righthaven’s official submittal for the registration to the Work, including the application, the  
16 deposit copy, and the registration fee (the “Complete Application”), Service Request No. 1-  
17 498243622, and attached hereto as Exhibit 3 is the official USCO application submittal for the  
18 Work depicting the occurrence of the Complete Application.

19           27.     On or about July 26, 2010, the Defendants displayed, and continue to display, the  
20 Infringement on the Website.

21           28.     The Defendants did not seek permission, in any manner, to reproduce, display, or  
22 otherwise exploit the Work.

23           29.     The Defendants were not granted permission, in any manner, to reproduce,  
24 display, or otherwise exploit the Work.

**CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

30. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 29 above.

31. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17 U.S.C. § 106(1).

32. Righthaven holds the exclusive right to prepare derivative works based upon the Work, pursuant to 17 U.S.C. § 106(2).

33. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to 17 U.S.C. § 106(3).

34. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17 U.S.C. § 106(5).

35. The Defendants reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

36. The Defendants created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

37. The Defendants distributed, and continue to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

38. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

39. BLE has willfully engaged in the copyright infringement of the Work.

40. Mr. Schmidt has willfully engaged in the copyright infringement of the Work.

41. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

42. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus

entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

**PRAYER FOR RELIEF**

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct GoDaddy, and any successor domain name registrar for the Domain, to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

1           6.       Award Righthaven pre- and post-judgment interest in accordance with applicable  
2 law; and

3           7.       Grant Righthaven such other relief as this Court deems appropriate.  
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6                               **DEMAND FOR JURY TRIAL**

7           Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil  
8 Procedure.

9           Dated this twelfth day of October, 2010.  
10

11                               RIGHTHAVEN LLC  
12

13                               By: /s/ J. Charles Coons  
14                               J. CHARLES COONS, ESQ.  
15                               Nevada Bar No. 10553  
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